

**BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY**

IN THE MATTER OF:)

Case No.: 3710

MICHAEL A. DENICOLE, D.O.)
Holder of License No. 2103)

**CONSENT AGREEMENT TO
FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND PROBATIONARY ORDER**

For the practice of osteopathic)
medicine in the State of Arizona)

By mutual agreement and understanding, the Arizona Board of Osteopathic Examiners (hereafter "Board") and Michael A. Denicole, D.O. (hereinafter "Respondent"), the parties, hereto agree to the following disposition to this matter.

1. Respondent acknowledges that he has read this Consent Agreement and Order; and, Respondent is aware of and understands the content of these documents.

2. Respondent understands that by entering into this Consent Agreement and Order, he voluntarily relinquishes any rights to a hearing on the matters alleged as grounds for Board action or to seek judicial review of the Consent Agreement and Order in state or federal court.

3. Respondent understands that this Consent Agreement and Order will not become effective unless approved by the Board and signed by its Executive Director.

4. Respondent further understands that this Consent Order and Order, once approved and signed, shall constitute a public record which will be disseminated as a formal action of the Board.

5. Respondent admits to the statement of facts and conclusions of law contained in the Consent Agreement & Order.

6. All admissions made by Respondent are solely for final disposition of this matter and any subsequent administrative proceedings or litigation involving the Board, Respondent and the State of Arizona; and, therefore, said admissions by Respondent are not intended for any other purpose or administrative regulatory proceeding or litigation in another state or federal court.

7. Respondent acknowledges and agrees that upon signing and returning this


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document (or a copy thereof) to the Board's Executive Director, he may not later revoke or amend any part of the Consent Agreement and Order, without first obtaining Board approval.

REVIEWED AND ACCEPTED THIS 17th DAY OF SEPTEMBER, 2006.


Michael A. Denicole, D.O., Respondent

REVIEWED AND ACCEPTED THIS 6th DAY OF SEPTEMBER, 2006.


Robert D. Bohm, Attorney for the Respondent

JURISDICTIONAL STATEMENTS

1. The Board is empowered, pursuant to A.R.S. §§ 32-1800 et seq. to regulate the licensing and practice of osteopathic medicine in Arizona.
2. The Board has the authority to informally dispose by stipulation, agreed settlement, consent order or default pursuant to A.R.S. § 41-1092.05 (F)(5).
3. Respondent holds license No. 2103 to practice osteopathic medicine in Arizona.

FINDINGS OF FACT

4. On May 1, 2006, Board staff received information that Respondent may have a substance abuse problem and may by forging prescriptions to obtain drugs for self-medication.
5. On the same day, Board staff reviewed the Respondent's licensing history and determined that the Respondent had been previously disciplined for facts of a similar nature and kind.

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1 6. On May 1, 2006, the Respondent was sent an Order to submit for a biological
2 fluid test. The Respondent complied with the Order and the analysis was positive for a "cocaine
3 metabolite."

4 7. On May 1, 2006, the Respondent was ordered to obtain an assessment and
5 evaluation for possible impairment and/or chemical dependency with Dr. Michel Sucher, MD.
6 Dr. Sucher's preliminary assessment, after talking with the Respondent, is that he is actively
7 relapsing.

8 8. The Respondent is actively seeking treatment from an addiction specialist and has
9 substantively participated in this Board inquiry.

10 9. The Board voted in public session on May 8, 2006 to enter into a Stipulation and
11 Consent Order.

12 CONCLUSIONS OF LAW

13 1. Pursuant to A.R.S. § 32-1800, et seq. the Arizona Board of Osteopathic
14 Examiners in Medicine and Surgery has subject matter and personal jurisdiction in this matter.

15 2. The conduct and circumstances described in paragraphs 4 through 9 above
16 constitute unprofessional conduct as defined in the following paragraphs of A.R.S. § 32-1854:

17 (3) Practicing medicine while under the influence of alcohol, narcotic or hypnotic
18 drugs or any substance that impairs or may impair the licensee's ability to safely
19 and skillfully practice medicine.

20 (5) Prescribing, dispensing or administering controlled substances or prescription
21 only drugs for other than accepted therapeutic purposes.

22 ORDER

23 **NOW, THEREFORE, IT IS ORDERED AND AGREED AS FOLLOWS:**

24 Pursuant to A.R.S. §§ 32-1855 © and 41-1064 ©, License No. 2103 held by **MICHAEL**
25 **A. DENICOLE, D.O.**, ("Respondent") shall be placed on **PROBATION** for 5 years from the
26 May 8, 2006 with the following terms and conditions of probation as set forth herein:

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1 1. Respondent shall not practice medicine until such time as he successfully
2 completes an in-patient evaluation and in-patient treatment program as recommended by a
3 treatment and care facility approved by the Executive Director. Respondent must adhere to any
4 and all recommendations of his evaluators upon release from the in-patient treatment program
5 and appear before the Board prior to practicing medicine in the State of Arizona.¹

6 2. Respondent will develop a plan for aftercare treatment and monitoring which shall
7 include, but may not be limited to, individual and/or group counseling sessions, random body
8 fluid testing, agreement for release of treatment records and reports to the Board, prohibition of
9 the use of alcohol and controlled substances unless the latter is prescribed or coordinated by his
10 treating physician, and regular meeting with the Board, and submit this plan to the Board for its
11 approval.

12 3. From the date of this Order, Respondent shall obtain psychiatric or psychological
13 treatment by a therapist(s) who is either a licensed psychiatrist and/or psychologist and is
14 selected by Respondent and approved by the Board. Respondent shall comply with the therapist
15 recommendation for the frequency of therapy treatment sessions. Respondent shall inform the
16 Board by letter (mailed within ten days of the date of this Order) of the therapist's name; and,
17 Respondent shall undertake and fully cooperate with a program of treatment established by the
18 therapist. In the event Respondent changes therapists, he shall give the Board written notice
19 within ten (10) days of said action. Respondent shall not discontinue or reduce the frequency of
20 psychotherapy sessions until he has submitted a written request to the Board and obtained Board
21 approval.

22 4. Respondent's therapist(s) shall receive a copy of this Order and Board staff shall
23 cooperate with and disclose all relevant information in the Board's files concerning Respondent.
24 The treating therapist shall be directed by Respondent to send to the Board a detailed written
25 progress report every month for the remainder of the probation; and Respondent, shall waive any
26 confidentiality concerning his psychotherapy in order that the Board may receive full disclosure
of information. The expense of the aforementioned therapy and the reports to the Board by
Respondent's therapist shall be the sole responsibility of the Respondent.

 5. Respondent shall provide a copy of this Order and any subsequent Orders to all
facilities where Respondent is currently (or subsequently) employed as a physician and/or has (or
subsequently receives) privileges to engage in the practice of medicine. Respondent shall provide

¹ The matter would be agendaized on the first available regular meeting.

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a copy of this Order to all treating physicians, dentists and or health care professionals.

Respondent shall continue to make the aforementioned disclosure and provide copies of this Consent Order until the expiration of this Order.

6. Respondent may have his license to practice as an osteopathic physician restricted, suspended or revoked by the Board in the future if:

- (a) The Board finds that Respondent does not have the requisite mental, physical and emotional fitness to safely continue the practice of medicine; or,
- (b) There are new grounds for finding unprofessional conduct concerning Respondent; or,
- (c) Fails to comply fully with the terms and conditions of this Order.

6. Respondent shall abstain completely from the consumption of alcoholic beverages or any substance with alcohol (i.e. cough syrups); and, Respondent shall not consume illicit drugs or take any controlled substances (i.e., prescription only drugs), unless his treating physician prescribes such medication for him with the awareness that Respondent has a substance abuse disorder. Respondent shall maintain a monthly log (for the duration of probation) of all prescription only drugs taken by him and such log shall include the following information:

- (a) the name of the medication;
- (b) name of prescribing physician;
- (c) reason for the medication.

7. At the first of each month, Respondent shall report by letter to the Board whether or not he is taking any prescription only medication and, if so, a copy of his log reflecting the above information.

8. Respondent shall also, as part of his probation: (A) submit to and cooperate in any independent medical or psychological evaluation that is ordered by the Board for Respondent and conducted by the Board's designated physician and/or psychologist which shall be paid for by Respondent; and (B) appear before the Board, upon receipt of a request by written or telephonic notification from the Board's executive director which shall be given at least five (5) days prior to the Board meeting; and, (C) submit to random biological fluid testing and promptly provide (i.e., within sixty (60) minutes of notification) required biological fluids for testing and said testing

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shall be done at the Respondent's expense.

9. Respondent shall participate in 90 meetings in 90 days upon his discharge from the treatment facility and then in a minimum of three (3) self-help meetings per week through such organizations as A.A., N.A., C.A. and doctor's Caduceus group. Respondent shall keep a log of all meetings attended and have the log signed by the chairperson of the meeting. Respondent will provide the Board with a copy of the signed log the first of every month.

10. In the event Respondent moves and ceases to practice medicine in Arizona, he shall give written notice to the Board of his new residence address within twenty (20) days of moving; and, the terms and duration of probation may be stayed by the Board until Respondent returns to practice medicine in Arizona.

11. Respondent shall reimburse the Board for all expenses associated with the continued monitoring of this matter.

12. Respondent shall continue to meet all licensing requirements such as continuing medical education and renewal requirements including applicable fees pursuant to A.R.S. § 321825.

13. The Board's Executive Director shall send correspondence to the appropriate state and/or federal law enforcement agency disclosing information in the Board's possession which may establish criminal misconduct by Respondent, i.e., illicit use of controlled substances.

14. Respondent's failure to comply with the requirements of this Order shall constitute unprofessional conduct as defined at A.R.S. § 321854(26), as amended, and may be considered as grounds for further disciplinary action (e.g., suspension or revocation of license) in the event that Respondent fails to comply with any of the requirements of this Order.



ISSUED THIS DAY 7th OF SEPTEMBER, 2006.
STATE OF ARIZONA
BOARD OF OSTEOPATHIC EXAMINERS IN
MEDICINE AND SURGERY

By: Jack Confer, Executive Director

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1 Original "Consent Agreement to
2 Findings of Fact, Conclusions of Law,
3 and Probationary Order" filed this 7th
4 day of September, 2006 with the:

5 Arizona Board of Osteopathic Examiners
6 In Medicine and Surgery
7 9535 East Doubletree Ranch Road
8 Scottsdale AZ 85258-5539

9 Copy of the foregoing "Consent Agreement to
10 Findings of Fact, Conclusions of Law,
11 and Probationary Order" sent via certified,
12 return receipt requested this 7th
13 day of September, 2006 to:

14 Michael A. Denicole, D.O.
15 Arizona Professional Medical Assoc., LTD
16 4544 Pebble Ridge Road
17 Paradise Valley, AZ 85253

18 Copies of the foregoing "Consent Agreement to
19 Findings of Fact, Conclusions of Law,
20 and Probationary Order" sent via regular
21 mail this 7th day of September, 2006 to:

22 Blair Driggs, AAG
23 Office of the Attorney General CIV/LES
24 1275 West Washington
25 Phoenix AZ 85007

26 Mr. Robert D Bohm
Bohm & Jones
2141 E Camelback Rd, Suite 100
Phoenix, AZ 85016-4723

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